

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

Jonathan S. Daniels,,

Plaintiff,

v.

Case No. 1:13cv402

New Prime, Inc., *et al.*,

Judge Michael R. Barrett

Defendants.

**ORDER**

This matter is before the Court on the Report and Recommendation filed by the Magistrate Judge on September 6, 2013 (Doc. 15).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation (Doc. 15) in a timely manner. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). The Court notes, however, that though such notice was served upon Plaintiff, it was returned to the Court due to Plaintiff's failure to apprise the Court of his change of address. By failing to keep the Court apprised of his current address, Plaintiff demonstrates a lack of prosecution of his action. See, e.g., *Theede v. United States Department of Labor*, 172 F.3d 1262, 1265 (10th Cir. 1999). Failure to object to a Magistrate Judge's Report and Recommendation (Doc. 15) due to delay resulting from a party's failure to bring to the Court's attention a change in address constitutes failure to object in a timely manner. Because the Report and Recommendation (Doc. 15) was mailed to the last known address, it was properly served, and party waived right to appellate review. See also *Jourdan v. Jabe*, 951 F.2d

108, 109 (6th Cir. 1991). A *pro se* litigant has an affirmative duty to diligently pursue the prosecution of his cause of action; *Barber v. Runyon*, No. 93-6318, 1994 WL 163765, at \*1 (6th Cir. May 2, 1994). A *pro se* litigant has a duty to supply the Court with notice of any and all changes in his address pursuant to Federal Rules of Civil Procedure 41(b).

Accordingly, it is **ORDERED** that the Report and Recommendation (Doc. 15) of the Magistrate Judge is hereby **ADOPTED**. Defendants' Motions to Dismiss (Docs. 8 and 11) are **GRANTED**. This matter is dismissed with prejudice.

**IT IS SO ORDERED.**

s/Michael R. Barrett  
Michael R. Barrett  
United States District Judge